



JUN 28 2002

The Honorable George E. Pataki
Governor of New York
Albany, New York 12224

Dear Governor Pataki:

It is with pleasure that I respond to the State of New York's request for a waiver of statutory and regulatory requirements under the Workforce Investment Act (WIA), in accordance with the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and sections 8-10 of the Wagner-Peyser Act. This authority is granted to the Secretary by section 189(i)(4)(A) of the Workforce Investment Act (WIA or the Act), and in the implementing regulations at 20 CFR 661.420.

These waivers grant states flexibility in program design for seamless program delivery and improved customer service, in exchange for accountability and agreed-to programmatic outcomes. We hope that these changes will assist your state in meeting its workforce needs and improving programmatic outcomes at the local level and statewide.

We are pleased to be able to respond positively to your request. The following is the disposition of the state's waiver submission.

Waiver: Waive the title I 20% transfer authority at WIA section 133(b)(4)

The State of New York is requesting a general waiver of the 20% transfer authority provision at WIA section 133(b)(4) to provide more flexibility in transferring funds between WIA Title I-B funding streams for adults and dislocated workers, to meet local needs. The state's initial March 15, 2002, submission lacked sufficient information on programmatic outcomes, monitoring and evaluation plans and the comment process used for the waiver, consistent with 20 CFR 661.420(c). In response to the Regional Office's request for additional clarification on the areas of concern, the state submitted supplemental information in a letter dated May 10, 2002. The state indicated that the waiver, if granted, would be used in limited circumstances, have a ceiling of a 40% transfer authority, with the implementation monitored by the state Department of Labor. The state also stipulated that it would establish a process by which the Local Workforce Investment Boards (WIBs), in consultation with the Chief Elected Official(s), may request approval from the state to transfer up to 40% of the fiscal year funds



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between title I-B Dislocated Worker and Adult funding streams, including, but not limited to, demonstrated need and accrued expenditures. The state indicates that its WIA plan will be modified to incorporate the waiver approval and include the state's process for local requests and approvals as an addendum to the plan, including the public comment requirements at 20 CFR 661.420(c) for local WIBs requesting approval for the 40% transfer authority. The state reports that it anticipates that the application of the waiver for the two areas that may currently qualify for the waiver will result in service levels for the dislocated worker funding stream remaining at the current level of 400, with an increase in service levels for the adult funding stream from approximately 850 currently planned to approximately 1000.

The state's request, including the supplemental information, appears to meet the requirements for waiver requests at 20 CFR 661.420. Accordingly, the state's request to waive the 20% transfer at WIA section 133(b)(4) to permit an increase in the transfer authority between the adult and dislocated worker funding streams to a maximum of 40% at the local level is approved, consistent with the state's waiver submissions. The waiver is approved for the current period of WIA authorization, through Program Year 2003, ending June 30, 2004.

The granted waiver is incorporated by reference into the state's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and also constitutes a modification of New York's approved five-year strategic plan. A copy of this letter should be filed with the state's WIA Grant Agreement and the state's approved five-year plan, as appropriate.

We look forward to continuing our partnership with you and to the achievement of better workforce investment outcomes and the improvement of the lives of many of the residents of New York. We are prepared to entertain other state and local-level waiver requests that the state may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,



Emily Stover DeRocco

Enclosures



**STATE OF NEW YORK
DEPARTMENT OF LABOR**
Workforce Development and Training Division
Building 12, Room 450
Governor W. Averell Harriman State Office Building Campus
Albany, New York 12240

May 10, 2002

Ms. Emily Stover DeRocco
Assistant Secretary for Employment
and Training
U.S. Department of Labor
Washington, D.C. 20210

Re: Supplemental Letter to the States
WIA Waiver Request of March 15, 2002

Dear Ms. DeRocco:

Per instructions from Tom McKenna and Dennis Nutt of your staff on May 1, this correspondence is to provide supplemental information with regard to New York State's request of March 15, 2002 for a general waiver of the Section 133(b)(4) of the WIA statute to provide more flexibility in the transferring of funds between WIA Title IB funding streams to meet local needs.

For your edification and clarification, the State's waiver request is to increase the transfer authority of Section 133(b)(4) from 20% to a maximum of 40%.

- *Description of the state's plan to monitor progress of the implementation of this waiver.*

Once the waiver is granted, New York State will notify all Local Workforce Investment Boards of the granting of the waiver. The State will further stipulate the process by which the Local Workforce Investment Board, in consultation with the Chief Elected Official(s) may request approval from the state to transfer up to 40% of the fiscal year funds between Title IB Dislocated Worker and Adult funding streams, including but not limited to demonstrated need and accrued expenditures, etc. For those local areas that are approved for up to 40% transfer authority, the State will issue an amended NQA, which is tracked through our financial reporting system and reported to USDOL on a quarterly basis.

- *Comment period for implementation of the requested waiver.*

As a condition for requesting approval for up to 40% transfer authority between WIA Adult and Dislocated Workers allocations, the State's review and approval process will stipulate that the Local Workforce Investment Board must provide documentation that a public notice has been issued and include any comments that have been received. To ensure that eligible dislocated workers are not negatively impacted, the Local Workforce

Investment Area will be required to include recent WARN notice and UI rate analysis for state review and deliberation.

- *Goals and programmatic outcomes anticipated as a result of implementation of the waiver.*

As stated in our request, the State anticipates that it will grant this waiver authority under very limited circumstances and only if justified by the Local Workforce Board in consultation with the Chief Elected Official. Our current analysis indicates that only two local areas may qualify for this waiver, based on expenditures alone. For these two areas, the goal for approval of the waiver is to meet local needs and expand business services.

It is anticipated that services in the dislocated worker funding stream will remain at their current level of approximately 400 and an increase in service levels in the adult funding stream from approximately 850 currently planned to approximately 1000.

Once this waiver request is granted, the State will revise its WIA plan to incorporate the waiver approval and include the process for local requests and approvals as an addendum to the plan.

Your expeditious consideration of this supplemental information and approval of this general waiver request would be much appreciated. Please do not hesitate to contact me at 518-457-0380.

Sincerely,



Margaret M. Moree
Director, Workforce Development
and Training Division

cc: Linda Angello
David Wehner
Marilyn Shea
Thomas McKenna



**STATE OF NEW YORK
DEPARTMENT OF LABOR**

Governor W. Averell Harriman State Office Building Campus
Albany, New York 12240

George E. Pataki
Governor

Linda Angello
Commissioner of Labor

March 15, 2002

Ms. Emily Stover DeRocco
Assistant Secretary for Employment
and Training
U.S. Department of Labor
Washington, D.C. 20210

Dear Ms. DeRocco:

This is to acknowledge receipt of your recent letter to Governor Pataki regarding the Secretary's waiver authority under the Workforce Investment Act (WIA) of 1998.

In response to your generous offer of increasing State and local flexibility under the Workforce Investment Act, on behalf of the Governor and the State Workforce Investment Board, the State of New York requests a general waiver of the following provision of the WIA statute to provide more flexibility in transferring of funds between WIA Title IB funding streams to meet local needs:

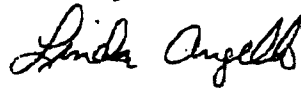
Section 133(b)(4) of WIA, "Transfer Authority -- A local board may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and 20 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between --

- (A) adult employment and training activities; and,
- (B) dislocated worker employment and training activities."

With the granting of this waiver request to increase the maximum local flexibility for transferring of adult and dislocated worker funds, we can ensure that the critical workforce needs of local communities are met. The State anticipates granting this waiver authority under very limited circumstances and only to those areas whose expenditures, employment and economic data justifies the movement of funds beyond the 20 percent threshold. Our current review of local areas indicates only two workforce areas in New York State might qualify for this waiver. Both areas have already exercised their option under the law to transfer funds; both areas are experiencing much higher demand for adult services than for dislocated worker services and the ability to transfer funds would enable them to serve greater numbers of individuals in areas most in demand in that local labor market.

Your expeditious approval of this general waiver request would be much appreciated. If you have any questions, please do not hesitate to contact Maggie Moree at 518-457-0380.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Angello".

Linda Angello

cc: David Wehner